

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

AARON SLEDGE,

Plaintiff

Case No. 3:20-cv-00342-RCJ-CLB

ORDER

v.

K. McCULLAH, *et al.*,

Defendants

I. DISCUSSION

On June 10, 2020, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983 and filed an application to proceed *in forma pauperis*. (ECF Nos. 1-1, 1). Plaintiff’s complaint and Plaintiff’s application to proceed *in forma pauperis* are both incomplete.

Plaintiff’s Complaint

Upon review, the Court notes that Plaintiff did not sign the complaint. (ECF No. 1-1 at 9). Under Rule 11 of the Federal Rules of Civil Procedure, a plaintiff who is not represented by counsel is required to sign his complaint. Fed. R. Civ. P. 11(a). Because Plaintiff did not sign the complaint, the Court cannot consider it.

As such, the Court grants Plaintiff a **one-time extension** to submit a signed amended complaint to the Court on or before **August 17, 2020**. If Plaintiff chooses to file an amended complaint, he is advised that an amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989). Therefore, a mere signature page will not be sufficient. Plaintiff should file the amended complaint on this Court’s approved prisoner civil rights form, and it must be entitled “First Amended Complaint.”

Plaintiff’s Application to Proceed *in Forma Pauperis*

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin

1 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil
 2 action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the
 3 inmate must submit all three the following documents to the Court:

4 (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this
 5 Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on
 6 page 3),

7 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
 8 official (i.e. page 4 of this Court's approved form), and

9 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
 10 **previous six-month period.**

11 Plaintiff has not submitted his two signatures on page 3 of the Court's Application
 12 to Proceed *in Forma Pauperis*.

13 Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis*
 14 (ECF No. 1) without prejudice because the application is incomplete. The Court will grant
 15 Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma*
 16 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete
 17 application to proceed *in forma pauperis* on or before **August 17, 2020**. Absent unusual
 18 circumstances, the Court will not grant any further extensions of time.

19 If Plaintiff is unable to file a signed amended complaint and a fully complete
 20 application to proceed *in forma pauperis*, with complete financial attachments, on or
 21 before **August 17, 2020**, the Court will dismiss this case without prejudice for Plaintiff to
 22 file a new case with the Court when Plaintiff is able to file a signed amended complaint
 23 and a fully complete application to proceed *in forma pauperis*, with complete financial
 24 attachments. To clarify, a dismissal without prejudice means Plaintiff does not give up
 25 the right to refile the case with the Court, under a new case number, when Plaintiff is able
 26 to file a signed complaint and a fully complete application to proceed *in forma pauperis*,
 27 with complete financial attachments. Alternatively, with respect to his application, Plaintiff
 28 may choose not to file an application to proceed *in forma pauperis* and instead pay the

1 full filing fee of \$400 on or before **August 17, 2020** to proceed with this case.

2 **II. CONCLUSION**

3 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court shall send
4 to Plaintiff the approved form for filing a § 1983 complaint, instructions for the same, and
5 a copy of his original complaint, including exhibits. (ECF Nos. 1-1, 1-2). If Plaintiff files an
6 amended complaint, he should use the Court's approved form and he must write the
7 words "First Amended" above the words "Civil Rights Complaint" in the caption.

8 IT IS FURTHER ORDERED that if Plaintiff chooses to file a signed amended
9 complaint, Plaintiff will file the signed amended complaint to this Court on or before
10 **August 17, 2020**.

11 IT IS FURTHER ORDERED that, if Plaintiff does not file a signed amended
12 complaint on or before **August 17, 2020**, the Court will dismiss this action without
13 prejudice for Plaintiff to refile the case with the Court, under a new case number, when
14 Plaintiff is able to file a signed amended complaint.

15 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*
16 (ECF No. 1) is denied without prejudice to file a new fully complete application to proceed
17 *in forma pauperis* with all three documents.

18 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
19 approved form application to proceed *in forma pauperis* by an inmate, as well as the
20 document entitled information and instructions for filing an *in forma pauperis* application.

21 IT IS FURTHER ORDERED that on or before **August 17, 2020**, Plaintiff will either
22 pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50
23 administrative fee) or file with the Court:

24 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
25 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
26 signatures on page 3),

27 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
28 official (i.e. page 4 of this Court's approved form), and

1 (3) a copy of the inmate's prison or jail trust fund account statement for the
2 previous six-month period.

3 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
4 application to proceed *in forma pauperis* with all three documents or pay the full \$400
5 filing fee for a civil action on or before **August 17, 2020**, the Court will dismiss this action
6 without prejudice for Plaintiff to refile the case with the Court, under a new case number,
7 when Plaintiff has all three documents needed to file a complete application to proceed
8 *in forma pauperis*.

9 DATED: June 18, 2020.

10 
11 UNITED STATES MAGISTRATE JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28